STATE OF VERMONT

HUMAN SERVICES BOARD

| In re | |) | Fair | Hearing | No. | 16,246 |
|--------|----|-----------|------|---------|-----|--------|
| | |) | | | | |
| Appeal | of |) | | | | |
| | |) | | | | |
| | | INTRODUCT | ION | | | |

The petitioner appeals the decision by the Department of Social Welfare denying his application for VHAP. The issue is whether the Department correctly calculated his income and expenses. The pertinent facts are not in dispute.

FINDINGS OF FACT

- 1. The petitioner presently receives unemployment compensation of \$287 a week.
- 2. He recently moved into the home of his fiancée, who has three children, none of whom is the petitioner's.
- 3. The petitioner is a truck driver by trade, but he cannot return to this work, or any other physical job, until he has surgery on his arm. The petitioner cannot obtain private insurance that would cover this surgery because it is a preexisting condition.

ORDER

The Department's decision is affirmed.

REASONS

Under the VHAP regulations gross income from unemployment compensation benefits is considered in determining eligibility. W.A.M. § 4001.81(b). The petitioner is not employed and he has no legal dependents living with him.

Therefore, there are no deductions from his income allowed in the regulations. <u>Id</u>. §§ 4001.81(d-f). This brings his countable income to more than \$1,200.00 a month.

Under the current regulations (see W.A.M. § 4001.84) the maximum allowable income for one person is \$1,030.00 a month. Procedures Manual § 2420. Unlike the Medicaid program, there is no provision in VHAP for a determination of "applied income" or a "spenddown", by which the incurring of a predetermined amount of excess medical expenses within a sixmonth period can trigger eligibility at that point. Being only slightly overincome, and facing inordinately high medical expenses, the petitioner is harshly affected by the lack of such a provision. At present, however, for individuals in the petitioner's circumstances there is nothing in the VHAP regulations allowing for the consideration of anticipated medical expenses (or any other expenses) as a deduction from gross unearned income.

Inasmuch as the Department's determination in this case is in accord with the regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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